

# **EXHIBIT “B”**

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UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEFFREY JOHNSON, JENNIFER RIESE,  
SHAUN SIMMONS, and JAMES  
PURVIS, individually, and on behalf of  
others similarly situated,

Plaintiffs,

vs.

HEWLETT-PACKARD COMPANY and  
DOES 1-25 inclusive,

Defendants.

Case No. C-09-03596 CRB

**DECLARATION OF ANNE M.  
BRAFFORD IN SUPPORT OF  
DEFENDANT HEWLETT-PACKARD'S  
MOTION FOR SUMMARY JUDGMENT**

Date: March 11, 2011  
Time: 10:00 a.m.  
Dept.: Courtroom 8  
Judge: Hon. Charles R. Breyer

1 I, Anne M. Brafford, hereby declare as follows:

2 1. I am a partner attorney at the law firm of Morgan, Lewis & Bockius LLP  
3 (“Morgan Lewis”), attorneys of record for Defendant Hewlett Packard Company (“HP” or  
4 Defendant”). I am licensed to practice law before all of the Courts for the State of California. I  
5 submit this declaration in support of HP’s Motions for Summary Judgment. I have direct and  
6 personal knowledge of the facts set forth in my Declaration and, if called and sworn as a witness,  
7 I would competently testify to these facts.

8 2. Attached as **Exhibit 1** is a true and correct copy of Defendant’s Supplemental  
9 Response to Plaintiffs’ Special Interrogatories, Set One, dated October 18, 2010.

10 3. Attached as **Exhibit 2** is a true and correct copy of excerpts of the deposition of  
11 Jeffrey Johnson, dated December 20, 2010.

12 4. Attached as **Exhibit 3** is a true and correct copy of excerpts of the deposition of  
13 Jennifer Riese, dated December 22, 2010.

14 5. Attached as **Exhibit 4** is a true and correct copy of excerpts of the deposition of  
15 Shaun Simmons, dated December 21, 2010.

16 6. Attached as **Exhibit 5** is a true and correct copy of excerpts of the deposition of  
17 Jonathan Oliver, dated November 17, 2010.

18 7. Attached as **Exhibit 6** is a true and correct copy of Plaintiff Jeffrey Johnson’s  
19 Supplemental Response to Defendant’s Special Interrogatories, Set One, dated August 17, 2010.

20 8. Attached as **Exhibit 7** is a true and correct copy of Plaintiff Jeffrey Johnson’s  
21 Response to Defendant’s Special Interrogatories, Set Two, dated December 8, 2010.

22 9. Attached as **Exhibit 8** is a true and correct copy of Plaintiff Jeffrey Johnson’s  
23 Third Supplemental and Amended Response to HP’s Special Interrogatories, Set One, dated  
24 February 1, 2011.

25 10. Attached as **Exhibit 9** is a true and correct copy of Plaintiff James Purvis’  
26 Response to HP’s Special Interrogatories, Set One, dated December 8, 2010.

27 11. Attached as **Exhibit 10** is a true and correct copy of Plaintiff Jennifer Riese’s  
28 Supplemental Response to HP’s Special Interrogatories, Set One, dated August 17, 2010.

12. Attached as **Exhibit 11** is a true and correct copy of Plaintiff Jennifer Riese's Response to HP's Special Interrogatories, Set Two, dated December 8, 2010.

13. Attached as **Exhibit 12** is a true and correct copy of Plaintiff Shaun Simmons' Supplemental Response to HP's Special Interrogatories, Set One, dated August 17, 2010.

14. Attached as **Exhibit 13** is a true and correct copy of Plaintiff Shaun Simmons' Second Supplemental Response to HP's Special Interrogatories, Set One, dated November 19, 2010.

15. Attached as **Exhibit 14** is a true and correct copy of Plaintiff Shaun Simmons' Response to HP's Special Interrogatories, Set Two, dated December 8, 2010.

16. Attached as **Exhibit 15** is a true and correct copy of Plaintiffs' Notice of Deposition under Fed. R. Civ. P. 30(b)(6), dated January 3, 2011.

17. Attached as **Exhibit 16** is a print-out of electronic content from the website [www.jamespurvis.com](http://www.jamespurvis.com), printed on February 4, 2011. George Zoyiopoulos, one of James Purvis' supervisors during his employment with HP, reviewed the website and confirmed to Morgan Lewis that the individual identified in photographs displayed on the website is Plaintiff James Purvis.

18. To date in the litigation, Morgan Lewis has produced to Plaintiffs over 300,000 pages of documents on behalf of HP in response to Plaintiffs' discovery requests.

19. Morgan Lewis produced to Plaintiffs' copies of the Global Incentive Statements generated by OMEGA for each Plaintiff for the duration of their employment with HP. These documents were provided to Morgan Lewis by HP and produced in the course of discovery as the following production numbers: HP00211049 - HP00211223, HP00214071 - HP00214230 (James Purvis), HP00001960 - HP00002377 (Jeffrey Johnson), HP00000922 – HP00001597 (Jennifer Riese), HP00001599 – HP00001958 (Shaun Simmons).

20. Morgan Lewis produced to Plaintiffs' copies of credited transactions reports generated by OMEGA for each Plaintiff for the duration of their employment with HP. These documents were provided to Morgan Lewis by HP and produced in the course of discovery as the following production numbers: HP000070412- HP00070414, HP00079151 (James Purvis),

1 HP00070405 – HP00070407, HP00079152 (Jeffrey Johnson), HP00070408 – HP00070409,  
 2 HP00079153 (Jennifer Riese), HP00070410 – HP00070411, HP00079155 (Shaun Simmons).

3 21. Morgan Lewis produced to Plaintiffs' copies of Siebel Reports related to each  
 4 Plaintiff. This document was provided to Morgan Lewis by HP and produced in the course of  
 5 discovery as production number HP00360244.

6 22. Morgan Lewis produced to Plaintiffs' copies of NASCAR Reports related to  
 7 Plaintiff Jennifer Riese. These documents were provided to Morgan Lewis by HP and produced  
 8 in the course of discovery as production number HP00014014.

9 23. Morgan Lewis produced to Plaintiffs' copies of reports prepared by IBM of its  
 10 purchases of HP products. These documents were provided to Morgan Lewis by HP and  
 11 produced in the course of discovery as, in part, production numbers HP00314588 – HP00314688,  
 12 and HP00371256.

13 24. Morgan Lewis produced to Plaintiffs' documents relating to Plaintiffs that identify  
 14 their quotas, the customers and/or territories that they were assigned to, and the amount of sales  
 15 that were credited to them. These documents were provided to Morgan Lewis by HP and  
 16 produced in the course of discovery.

17 25. To date Plaintiffs' only discovery request to HP about revenue data was contained  
 18 in Plaintiffs' Request for Production of Documents No. 75, served on January 4, 2011. This  
 19 request does not seek information demonstrating how much revenue HP realized from the  
 20 customers and/or territories assigned to each Plaintiff.

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26. Defendant's Interrogatories to Plaintiffs asked each Plaintiff the following:

"IDENTIFY any page of any DOCUMENT (by Bates label) and/or any COMMUNICATION on which you base YOUR claim that a contract existed between YOU and DEFENDANT, as alleged in the First Claim for Relief in this lawsuit." Each Plaintiff responded with a list of Bates labels. Attached as **Exhibit 17** is a true and accurate summary of a description of the documents that each Plaintiff identified. Each identified HP's policy and plan documents governing incentive compensation.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 4th day of February, 2011, at Irvine, California.

/s/ Anne M. Brafford  
Anne M. Brafford